UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,352	09/28/2000	Clinton A. Staley	08822-050001	7756

22462	7590	03/03/2006	EXAMINER

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ART UNIT	PAPER NUMBER
2613	

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<table>
<tr><td rowspan="2" align="center">Advisory Action
Before the Filing of an Appeal Brief</td><td>Application No.
09/672,352</td><td>Applicant(s)
STALEY ET AL.</td><td></td></tr>
<tr><td>Examiner
Allen Wong</td><td>Art Unit
2613</td><td>.</td></tr>
</table>

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 February 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1,4-6,8-19,21 and 23-31</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

Allen Wong
Primary Examiner
Art Unit: 2613

Continuation of 11. does NOT place the application in condition for allowance because: All of the limitations of the claims have been addressed in the previous Office Action sent on 12/9/05. Regarding applicant's assertion that neither Lim, Linzer nor Gonzales teach, disclose or suggest a separate function, for each frame in a sequence of frames, that relates encoded size to encoded quality for each frame. The examiner respectfully disagrees. In fig.1, Lim discloses the controller 10 is connected to the buffer 120 that receives various amounts or sizes of image frames encoded by coder 110, in that a sequence of frames is sent through the encoding system of fig.1 in a recyclical or recursive manner that applies an MPEG video image encoding recursive rate control encoding scheme for encoding a plurality of images, I, P and B frames. Each frame within that sequence of frames (GOP) have different sizes. Further, Lim's fig.1, there is a quantization controller 10 and a selector 160 that decides which quantization parameter to use on the evaluated frame(s) in order to properly allocate the number of bits to the evaluated frame(s) for efficient coding. Thus, Lim teaches a separate function, for each frame in a sequence of frames, that relates encoded size to encoded quality for each frame.

Regarding applicant's contention that neither Lim, Linzer nor Gonzales teach, disclose or suggest a search of all of the separate functions to determine a best quality value to encode the entire sequence, and encoding each frame using the same determined best quality for all of the frames. The examiner respectfully disagrees. In fig.1, Lim discloses an MPEG video image encoding recursive rate control encoding scheme, as elaborated in the above arguments. Note the buffer 110 is image data storage that can store images of various sizes in that a recursive process is done to monitor the quality of the encoded bit frames by checking on the buffer fullness to determine the total size constraint. The Qp adjuster 130 of Lim's fig.1 adjusts the quality of the encoded frames and element 160 selects the best quality value Qp out of a plurality of quality values obtained by functions performed by Qp adjuster and evaluation of the multitudes of degrees of buffer fullness. Thus, best quality value is ascertained and searched, as disclosed in col.3, ln.47-53. Therefore, Lim discloses a search of all of the separate functions to determine a best quality value to encode the entire sequence, and encoding each frame using the same determined best quality for all of the frames.

Linzer is used to teach prior to encoding any of the frames that performs a search of all frames in the sequence of frames for a best quality value, as disclosed in Linzer's fig.3, element 24. Also, see col.5, ln.63-67, col.6, ln.9-13 and ln.25-26, where the statistics gatherer 24 obtains a search of all the frames from the video sources to obtain a best quality value prior to encoding any of the frames. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of Lim and Linzer, together as a whole, for gathering all of the possible pre-encoding data so as to efficiently encoding high quality images in an accurate, precise manner, as suggested in Linzer's column 3, line 64 to column 4, line 13.

Regarding applicant's argument that there is no motivation in Linzer to combine with Lim. The examiner respectfully disagrees. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art to combine the teachings of Lim and Linzer, together as a whole, for gathering all of the possible pre-encoding data so as to efficiently encoding high quality images in an accurate, precise manner, as suggested in Linzer's column 3, line 64 to column 4, line 13.

Thus, claims 1, 16 and 19 are met by Lim in view of Linzer.

Dependent claims 4-6, 8-15, 17, 18, 21, and 23-31 are rejected for at least the reasons stated above and in the rejection below.

Thus, the rejection of claims 1, 4-6, 8-19, 21 and 23-31 is maintained..